
UNITED STATES DEPARTMENT OF COMMERCE NEWS

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BUREAU OF
EXPORT
ADMINISTRATION

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CONTACT: Eugene **Cottilli**

Susan Hofer

(202) 482-2721

CHICAGO AREA FREIGHT FORWARDER AGREES TO PENALTY TO SETTLE ANTIBOYCOTT CASE

WASHINGTON -- The Commerce Department today imposed a \$12,000 civil penalty on Phoenix International Freight **Services**, Ltd., a Wood Dale, Illinois, **freight** forwarder, for three **alleged** violations of the antiboycott provisions of the Export Administration Act and Regulations, F. Amanda **DeBusk**, Assistant Secretary for Export Enforcement, announced.

The Department alleged that on one occasion in 1993, in connection with an export to Kuwait, Phoenix International furnished one item of information about the blacklist status of a shipping vessel, and that in 1994, in connection with an export to Dubai, U.A.E., Phoenix **International** furnished one item of information about another company's business relationships with Israel. The Department also alleged that Phoenix International **failed to** report its **receipt** of boycott requests in one letter of credit that related to the 1993 **Kuwaiti** export.

While neither admitting nor **denying** the alleged antiboycott violations, Phoenix International agreed to pay the civil penalty to settle the case.

The antiboycott provisions of the Export Administration Act and Regulations apply to foreign boycotts fostered or imposed against a country which is **friendly** to the United States and which is not **itself the object** of any form of boycott pursuant to **United States** law or regulation.

The antiboycott provisions prohibit United States individuals and companies **from** **furnishing** information about any person's business relationships with or in a boycotted country, **or** with individuals and companies believed to be restricted **from** doing business with or in one or more countries that participate in the Arab boycott of **Israel**. U.S. companies and individuals are **also** required to report to the Department each boycott-related request they receive.

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

_____)	
In the Matter of)	
)	
PHOENIX INTERNATIONAL FREIGHT)	
SERVICES, LTD.)	
_____)	Case No. <u>96-4</u>

ORDER

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("**Department**"), having determined to initiate administrative proceedings pursuant to Section **11(c)** of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. **§§** 2401-2420 (1991 & Supp. 1997)) (the "**Act**")¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)), against Phoenix International Freight Services, Ltd. ("**Phoenix**"), a domestic concern resident in the State of Illinois, based on the allegations set forth in the Proposed Charging Letter, dated September 15, 1997, attached hereto and incorporated herein **by** this reference; and

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)) and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. **§§** 1701-1706 (1991 & Supp. 1997)).

The Department and Phoenix having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

The Assistant Secretary for Export Enforcement having approved the terms of the Settlement Agreement:

IT IS THEREFORE ORDERED THAT,

FIRST, a civil penalty in the amount of \$12,000 is assessed against Phoenix;


SECOND, Phoenix shall pay to the Department, in complete settlement of this matter, the sum of \$12,000 within twenty (20) days of the service of this Order as specified in the attached instructions;

THIRD, as authorized by Section **11(d)** of the Act, the timely payment of the sum of \$12,000 is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted,

to Phoenix. Accordingly, if Phoenix should fail to make payment in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Phoenix's export privileges for a period of one year from the date of entry of this Order; and

FOURTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Phoenix.

This Order is effective **immediately**.


F. Amanda DeBusk
Assistant Secretary for Export Enforcement
Bureau of Export Administration

Entered this 10th day of December 1997.

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
ROOM 6622
14th STREET & CONSTITUTION AVENUE, N.W.
WASHINGTON, D.C. 20230

ATTENTION: MIRIAM COHEN

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

In the Matter of)

PHOENIX INTERNATIONAL FREIGHT)
SERVICES, LTD.)

Case No. 96-4

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Phoenix International Freight Services, Ltd., a domestic concern resident in the State of Illinois ("**Phoenix**"), and the United States Department of Commerce ("**Department**"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (**1997**)), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the "**Act**").¹

WHEREAS, the Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce, has notified Phoenix of its intention to initiate an administrative proceeding

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (**1995**)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (**1996**)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)) and August 13, 1997 (62 **Fed. Reg.** 43629, August 15, **1997**), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

against Phoenix pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter, dated September 15, 1997, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Phoenix has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Phoenix neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Phoenix agrees to be bound by the appropriate Order ("Order") in the form attached hereto and incorporated herein, when entered;

NOW, THEREFORE, Phoenix and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Phoenix with respect to the matters alleged in the Proposed Charging Letter.
2. In complete settlement of all matters set forth in the Proposed Charging Letter, Phoenix will pay to the Department the amount of \$12,000 within 20 days of service upon it of the Order.
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2, above, is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to Phoenix. Failure to make timely payment as described in paragraph 2 shall result in the denial of all of Phoenix's export privileges for a period of one year from the date of entry of the Order imposing the civil penalty.
4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, Phoenix hereby

waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:

- a. An administrative hearing regarding the allegations in the Proposed Charging Letter;
 - b. Request a refund of the funds paid by Phoenix pursuant to this Settlement Agreement and the Order, when entered; or
 - c. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
5. The Department, upon entry of the Order, will not subsequently initiate any further administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Phoenix, with respect to any violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the

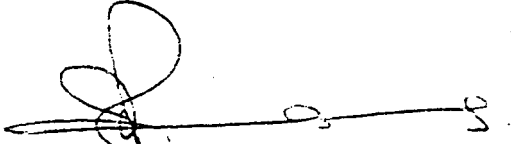
transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.

6. Phoenix understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
7. This Settlement Agreement is for settlement purposes **only**, and does not constitute an admission or evidence of an admission by Phoenix that it has violated the Regulations or an admission or evidence of an admission of the truth of any allegation contained in the Proposed Charging Letter or in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Phoenix in . any administrative or judicial proceeding.
8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor, except as provided in paragraph number 5

of this Settlement Agreement, shall this Settlement Agreement bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed.

9. This Settlement Agreement will become binding on the Department only when 'approved by the Assistant Secretary for Export Enforcement by entering the Order.

PHOENIX INTERNATIONAL FREIGHT
SERVICES, LTD.



W. Michael Panasewicz
President

October 22, '97
Date

U.S. DEPARTMENT OF COMMERCE



Dexter M. Price
Acting Director
Office of Antiboycott Compliance

November 18, 1997
Date



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

PROPOSED CHARGING LETTER

September 15, 1997

Phoenix International Freight
Services, Ltd.
712 N. Central Avenue
Wood Dale, Illinois 60191

Attention: Mr. Michael Panasewicz
President

Re: Case No. 96-4

Gentlemen:

We have reason to believe and charge that you, Phoenix International Freight Services, Ltd., have committed three (3) violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1997)) (the "Act").

We charge that, with intent to comply with, further or support an unsanctioned foreign boycott, on two (2) occasions you furnished information about other persons' business relationships with or in a boycotted country, with any business concern organized under the laws of a boycotted country, with any national or resident of a boycotted country, or with any other person who is known or believed to be restricted from having a business relationship

¹ The alleged violations occurred during 1993 and 1994. The Regulations governing the violations at issue are found in the 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993 and 1994)). Those Regulations define the violations that the Bureau of Export Administration alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters in this letter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)) and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).



with or in a boycotting country, in violation of Section 769.2(d) of the former Regulations. We also charge that you failed on one (1) occasion to report to the Department your receipt of requests to engage in restrictive trade practices or boycotts, pursuant to Section 769.6 of the former Regulations.

We allege that:

1. You are a domestic concern resident in the State of Illinois, and as such you are a United States person as defined in Section **760.1(b)** of the Regulations.
2. During the period December 1992 through August 1994, you engaged in transactions involving the sale or transfer of United States origin goods or services, including information, between the United States and Kuwait and the United Arab Emirates, activities in the interstate or foreign commerce of the United States as defined in Section 769.1(d) of the former Regulations.
3. In connection with the transactions referred to in paragraph 2 above, on or about December 21, 1992, you received from a U.S. company a Shipper's Letter of Instruction ("**SLI**") and a copy of a letter of credit, reference number U252514, regarding a shipment of U.S. goods to Kuwait. The SLI requested you to prepare and submit documents as described in the letter of credit. The letter of credit contained requests for two blacklist certificates, as quoted below:

"Documents required

...
5 - CERTIFICATE TESTIFYING THAT THE MANUFACTURER IS NEITHER WARNED OR BLACK LISTED BY ISRAEL BOYCOTT BUREAU.

6 - A CERTIFICATE FROM THE SHIPPING COMPANY TESTIFYING THAT THE VESSEL CARRYING MATERIALS/EQUIPMENT IS NOT ON ISRAEL BOYCOTT BUREAU **BLACK** LIST"

4. You failed to report your receipt of the requests to engage in restrictive trade practices or boycotts, which were quoted in paragraph 3 above, as required by Section 769.6 of the former Regulations. We therefore

charge you with one (1) violation of Section 769.6 of the former Regulations.

5. In connection with the transaction referred to in paragraph 3 above, on or about January 27, 1993, you prepared, signed and furnished to a U.S. bank a certificate, which contained the following information:

"WE TESTIFY THAT [sic] THE VESSEL CARRYING MATERIALS/EQUIPMENT IS NOT ON ISRAEL BOYCOTT BUREAU BLACK LIST . . ."

6. By taking the actions described in paragraph 5, above, on one (1) occasion you furnished information about another person who is known or believed to be restricted from having a business relationship with or in a boycotting country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted. We therefore charge you with one (1) violation of Section 769.2(d) of the former Regulations.
7. In connection with the transactions referred to in paragraph 2 above, on one (1) occasion on or about August 3, 1994, regarding your transaction reference number 104881, you provided to the Sheraton Dubai Hotel, in Dubai, U.A.E., a copy of an invoice which you received from a company located in the United Kingdom. The invoice described U.S. origin goods, and contained the following certification of origin:

"We further certify that no materials charged herein are of Israeli origin nor do they have any Israeli content."

8. By taking the action described in paragraph 7 above, on one (1) occasion you furnished information about another person's business relationships with or in a boycotted country, with any business concern organized under the laws of a boycotted country, or with any national or resident of a boycotted country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted. We therefore charge you with one (1) violation of Section 769.2(d) of the former Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative **sanctions**.³

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

You are entitled to an agency hearing on the record as provided by Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between the Bureau of Export Administration and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard **ALJ Docketing Center**
40 South Gay Street
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Office of the Chief Counsel for Export Administration
Room H-3839
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

Attention: Jeffrey E.M. Joyner, Esq.

³ Administrative sanctions may include any or all the following:

- a. Denial of export privileges (**see** Section 764.3(a)(2) of the Regulations);
- b. Exclusion from practice (**see** Section 764.3(a)(3) of the Regulations); and/or
- c. The maximum civil penalty of \$10,000 per violation (**see** Section 764.3(a)(1) of the **Regulations**).

Mr. Joyner may be contacted by telephone at (202) 482-5311.

Sincerely,

Dexter M. Price
Acting Director
Office of Antiboycott Compliance